

REMARKS

The Office examined claims 1-6 and 8-30 and rejected same. With this paper, the claims are unchanged. Reconsideration is requested.

Only claims 1, 15 and 25 are independent.

Rejections under 35 USC §103

At section 6 of the Office action, claims 1-24 are rejected under 35 USC §103 as being unpatentable over Applicant Admitted Prior Art (AAPA) in reference to SyncML Initiative (including standards and specifications for SyncML, SyncML Representation Protocol, and SyncML Sync Protocol, SyncML Device Management Protocol).

Claim 1 recites that a first device prepares a message including information indicating a folder useable for storing data in a data store of the first device, with the message including a header and a body, each in turn comprising one or more elements, with the body elements useable for providing commands in connection with synchronizing the first data store with respect to a data store in another device and also useable for conveying data from the data store, and the information indicating the folder of the data store uniquely identifies the folder and is placed in the message in an element different from where data of the data store is placed or would be placed if included in the message.

Claims 15 and 25 recited limitations corresponding to those of claim 1.

To reject the claims, the Office asserts that:

... session 4, Sync Initialization of SyncML Sync Protocol of SyncML Initiative shows the use of Alert command (e.g. element) for authentication and indication of which database to be synchronized and Put and Get commands (e.g. different element from Alert command) for conveying the data. This

clearly shows the claimed limitation of "information indicating the folder of the data store uniquely identifies the folder and is placed in the message in an element different from where data of the data store is placed or would be placed if included in the message."

Applicant understands this argument by the Office as asserting that a database is the equivalent of a folder, for purposes of interpreting the scope of claim 1. Applicant respectfully submits that because of how the term "data store" (encompassing "database") and the term "folder" are used in the application, and also from common usage, one skilled in the art would distinguish between a "folder" and a "database," and understand that a database typically includes a plurality of folders often in a tree structure, with each folder containing data. The Federal Circuit has explained that terms in the claims are to be interpreted based on how the terms are used in the specification. In *Phillips vs. AWH Corp.*, 415 F.3d 1303, 75 USPQ.2d 1321 (Fed. Cir. 2005), an *en banc* decision, the Court explained that:

[T]he specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.

The Court further explained:

That starting point [for understanding a claim term] is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art. ... Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.

Applicant respectfully points out that the application explains at page 4, ll. 18-25:

... what is called a folder in various operating systems (such as Windows, available from Microsoft Corporation) is to be understood by the term folder as used here, but so is a record in a table of a relational database, since a record in such a table includes fields, which are data units. Even such a field can be considered a folder, since a field

contains characters, numbers, or other elements that can be considered data units, and thus each field is a folder.

Thus, a folder is contrasted with a database. A folder could be a record or a field in a database, but not the database itself, and is understood to encompass also its usual meaning in a computer environment, i.e. a container of files in a directory structure hosted by a data store. Per the Court in *Phillips vs. AWH Corp.*, applicant respectfully submits that the Office cannot interpret a "database" to be a "folder," and so cannot assert that the disclosure of an Alert command suffices to teach or suggest information indicating a folder of a data store and uniquely identifying the folder is placed in a message in an element different from where data of the data store is placed or would be placed if included in the message, as required by claims 1, 15 and 25, and so by all the claims, by virtue of their dependencies.

Accordingly, and applicant respectfully requests that the rejections under 35 USC §103 be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

20 October 2006_____

Date

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224

Respectfully submitted,



James A. Retter
Registration No. 41,266

tel: (203) 261-1234
Cust. No.: 004955